

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

United States of America,)	CRIMINAL NO. 3:09-1174-CMC
)	
v.)	OPINION and ORDER
)	
Gerald Benfield,)	
)	
Defendant.)	
_____)	

This matter is before the court on Defendant's letter requesting termination of probation.

The Clerk is directed to file this letter as of the filing date of this Order.

The United States Probation Office has notified this court by letter that it opposes the request at this time. The United States Attorney does not oppose termination of probation at this time.

Title 18 United States Code Section 3564(c) provides that

The court, after considering the factors set forth in section 3553(a) to the extent they are applicable, may . . . terminate a term of probation previously ordered and discharge the defendant at any time . . . after the expiration of one year of probation in the case of a felony, if it is satisfied that such action is warranted by the conduct of the defendant and the interest of justice.

Considerations contained in § 3553 include, *inter alia*, the nature and circumstances of the offense and the history and characteristics of the defendant; the ability to afford adequate deterrence to criminal conduct; the need to protect the public from further crimes of the defendant; and the need to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner. 18 U.S.C. § 3553.

Defendant has a pending appeal in the Fourth Circuit Court of Appeals. Therefore, to the extent this court retains jurisdiction to terminate a period of probation during a pending appeal, the court denies Defendant's request. Defendant was informed at sentencing by the undersigned that

termination of probation would be considered after Defendant had served at least two (2) years of the three (3) years of the probation sentence which was imposed. Tr. of Sentencing at 6 (ECF No. 724, filed Feb. 11, 2011). Defendant has been compliant with the terms of his probation, but has not demonstrated any action which warrants early termination.

Defendant's request for termination of probation is **denied**.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
October 7, 2011